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UNCLAS SECTION 01 OF 02 KATHMANDU 000425

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SUBJECT: BHUTANESE REFUGEE ACTIVIST DENIED BAIL BY SUPREME COURT

1. Summary. Nepal's Supreme Court has denied bail to prominent Bhutanese refugee and human rights activist S.K. Pradhan on the grounds that he is not a Nepali citizen, affirming the decisions of two lower courts. Named in a complaint filed by a member of a rival refugee group, Pradhan has been detained for more than five months awaiting trial for the charge of conspiracy to murder. Pradhan remains in good health and has been well treated, he told Emboff by telephone on two occasions. Post will continue to urge Nepali officials to ensure that Pradhan receives a fair and speedy trial. End Summary.

#### Bail Denied After Blanket Complaint

2. (SBU) Nepal's Supreme Court February 20 affirmed the decision of a lower court that authorities could continue to deny bail to prominent Bhutanese refugee and human rights activist S.K. Pradhan. Pradhan, Secretary General of the People's Forum for Human Rights and Development (PFHRD), is being detained along with ten other suspects pending an investigation into the September 9, 2001 murder of R.K. Budathoki, the leader of a competing refugee interest group, the Bhutan People's Party (BPP). [Note: Pradhan returned to Nepal September 5 after attending the World Conference Against Racism in Durban, South Africa. He was in Kathmandu at the time of Budathoki's murder. End Note.] A complaint filed by one of Budathoki's associates named a total of 43 individuals as parties to a conspiracy to commit murder. Eleven have been taken into custody, and warrants remain outstanding for the other thirty-two.

#### All the Way to the Supreme Court

3. (SBU) The District Court for Jhapa in eastern Nepal ruled October 16, 2001 that because Pradhan is not a citizen of Nepal, under the law he is ineligible for bail. [Note: Nepal's criminal code makes no provision for bail for non-citizens.] The Appellate Court in Ilam upheld the Jhapa court's decision January 18, and the Supreme Court affirmed February 20. Pradhan was arrested September 19, 2001, and thus has now been held in detention without trial for over five months. Nepal's criminal law does not limit the time a defendant can be held in detention awaiting trial. A local attorney who argues cases before Nepal's Supreme Court told us that the courts could take years to reach a verdict in Pradhan's case.

#### Jailers: Speak Nepali, Please

4. (SBU) Emboff has spoken twice with Pradhan by telephone from his jail cell in Jhapa, on November 19, 2001 and again on February 25. Speaking in the presence of court officers - who object when Pradhan lapses into English - on both occasions Pradhan stated that he has been well treated by his jailers and is in good health. Pradhan also maintained his innocence, adding that he hoped justice would prevail, and asked for U.S. Government assistance to help secure his release. Post maintains regular contact with Pradhan's family, who continue to lobby for his release from detention.

#### Comment: Prisoner of Languor?

5. (SBU) The judiciary's reticence to grant bail apparently squares with the law, but means that Pradhan could remain in detention for months, if not years. So far, Pradhan's lawyers have concentrated on securing his release on bail, and not on dismissing the blanket complaint. With appeals on the bail case exhausted, they will now turn their attention to answering the charges in court. Post will continue to urge Nepali officials to ensure that Pradhan is given a fair and speedy trial.

